



State of Utah
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL, GAS AND MINING

Michael O. Leavitt
Governor
Robert L. Morgan
Executive Director
Lowell P. Braxton
Division Director

1594 West North Temple, Suite 1210
PO Box 145801
Salt Lake City, Utah 84114-5801
(801) 538-5340 telephone
(801) 359-3940 fax
(801) 538-7223 TTY
www.nr.utah.gov

October 29, 2002

TO: Lowell P. Braxton, Director

THRU: Mary Ann Wright, Associate Director *MAW*

THRU: Wayne Hedberg, Permit Supervisor *WH*

FROM: Tom Munson, Senior Reclamation Specialist *TM*

RE: Request for Approval of Form and Amount of Replacement Reclamation Surety, Brush Resources Inc., Topaz Mine, M/023/003, Juab County, Utah

On September 4, 2002, we received notification that Brush Resources Inc.'s (Brush) \$500,000 surety bond issued by Western Surety was going to be cancelled effective November 29, 2002. We notified Brush and was informed they would immediately check into the situation.

Later Brush advised us that they were having difficulty finding another surety company to replace the surety bond. After meeting with Division representatives, Brush requested that they be allowed to withdraw their amendment to expand into the Rainbow #2 and Section 16 S#1 sites and, thereby, reduce the \$500,000 surety back to the original surety amount of \$311,300, which was approved prior to the amendment. The expansion proposal has not yet been disturbed, and Brush will suspend future mine expansion at this time. On October 22, 2002, the Division accepted this proposal and advised the operator they could post the original amount of \$311,300.

The operator has provided the Division with a \$311,300 Letter of Credit #SCL008327, issued by National City Bank of Cleveland, Ohio as reclamation surety and a replacement Reclamation Contract, which the surety is directly tied to.

If you are in agreement with the acceptance of the replacement reclamation surety please sign and date the Reclamation Contract. We will then send executed copies of the documents to Brush for their files and return their Western Surety bond to them for disposal. Thank you for your consideration of this request.

jb
Enclosure: MR-RC & LOC
O:\M023-Juab\m023003-topaz-brush\final\Dir-sign-mem.doc

Approved
LFB 11-6-02

RECEIVED

OCT 29 2002

DIV. OF OIL, GAS & MINING

STATE OF UTAH
DEPARTMENT OF NATURAL RESOURCES
DIVISION of OIL, GAS and MINING
1594 West North Temple Suite 1210
Box 145801
Salt Lake City, Utah 84114-5801
(801) 538-5291
Fax: (801) 359-3940

RECLAMATION CONTRACT
---ooOoo---

For the purpose of this RECLAMATION CONTRACT the terms below are defined as follows:

"NOTICE OF INTENTION" (NOI): (File No.) (Mineral Mined)	<u>M/023/003</u> <u>Bertrandite Ore</u>
"MINE LOCATION": (Name of Mine) (Description)	<u>Topaz Mining Properties</u> <u>47 Miles West Brush Wellman Road</u> <u>Delta, UT 84624</u>
"DISTURBED AREA": (Disturbed Acres) (Legal Description)	<u>203</u> <u>(refer to Attachment "A")</u>
"OPERATOR": (Company or Name) (Address)	<u>Brush Resources Inc.</u> <u>P.O. Box 815</u> <u>Delta, UT 84624</u>
(Phone)	<u>(435) 864-2701</u>

"OPERATOR'S REGISTERED AGENT":

Name)
(Address)

A. John Davis
Pruitt, Gushee & Bachtell
Suite 1850 Beneficial Life Tower
Salt Lake City, UT 84111-1495
(801) 531-8446

(Phone)

"OPERATOR'S OFFICER(S)":

President, Alex C. Boulton
Vice President, Greg G. Hawkins
Treasurer, Michael C. Hasychak

SURETY":

(Form of Surety - Attachment B)

Irrevocable Letter of Credit

"SURETY COMPANY":

(Name, Policy or Acct. No.)

National City Bank
[REDACTED]

"SURETY AMOUNT":

(Escalated Dollars)

\$311,300.00

"ESCALATION YEAR":

2003

"STATE":

State of Utah

"DIVISION":

Division of Oil, Gas and Mining

"BOARD":

Board of Oil, Gas and Mining

ATTACHMENTS:

A "DISTURBED AREA":

B "SURETY":

This Reclamation Contract (hereinafter referred to as "Contract") is entered into between Brush Resources, Inc. the "Operator" and the Utah State Division of Oil, Gas and Mining ("Division").

WHEREAS, Operator desires to conduct mining operations under Notice of Intention (NOI) File No. M/023/003 which has been approved by the Utah State Division of Oil, Gas and Mining under the Utah Mined Land Reclamation Act, Sections 40-8-1 et seq., Utah Code Annotated, (1953, as amended) (hereinafter referred to as "Act") and implementing rules; and

WHEREAS, Operator is obligated to reclaim that area described as the Disturbed Area as set forth and in accordance with Operator's approved Reclamation Plan, and Operator is obligated to provide surety in form and amount approved by the Division, to assure reclamation of the Disturbed Area.

NOW, THEREFORE, the Division and the Operator agree as follows:

1. Operator agrees to conduct reclamation of the Disturbed Area in accordance with the Act and implementing regulations, the original Notice of Intention dated March 16, 1977, and the original Reclamation Plan dated March 16, 1977. The Notice of Intention as amended, and the Reclamation Plan, as amended, are incorporated by this reference and made a part hereof.
2. Concurrent with the execution hereof, Operator has provided surety to assure that reclamation is conducted, in form and amount acceptable to the Division. Such surety as evidenced by the Surety Contract is in the form of the surety attached hereto as Attachment B and made a part hereof. The Surety Contract shall remain in full force and effect according to its terms unless modified by the Division in writing. If the Surety Contract expressly provides for cancellation, then, within 60 days following the Division's receipt of notice that the Surety Company intends to cancel the Surety Contract, the Operator shall provide a replacement Surety Contract in a form and amount reasonably acceptable to the Division. If the Operator fails to provide an acceptable replacement Surety Contract, the Division may order the Operator to cease further mining activities and to begin immediate reclamation of the Disturbed Area.
3. Operator agrees to pay legally determined public liability and property damage claims resulting from mining to the extent provided in Section 40-8-7(1)(e) of the Act.
4. Operator agrees to perform all duties and fulfill all reclamation requirements applicable to the mine as required by the Act and implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended.
5. The Operator's liability under this Contract shall continue in full force and effect until the Division certifies that the Operator has reclaimed the Disturbed Area in accordance with the Act and implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended.
6. If reclamation of discrete sections of the Disturbed Area is completed to the satisfaction of the Division, and the Division finds that such sections are severable from the remainder of the Disturbed Area, Operator may request the Division to certify that Operator has reclaimed such discrete sections of the Disturbed Area in accordance with the Act and Implementing rules, the Notice of Intention, as amended and the Reclamation Plan, as amended. If the Division makes such certification, Operator may make request to the Division that the aggregate face amount of the Surety Contract provided pursuant to paragraph 2 be reduced to an amount necessary to provide for completion of the remaining reclamation. The Division shall hear Operator's request for such reduction in accordance with the Board's Procedural Rules concerning requests for Agency Action.

7. Operator agrees to indemnify and hold harmless the State, Board and the Division from any claim, demand, liability, cost, charge, suit, or obligation of whatsoever nature arising from the failure of Operator or Operator's agents and employees, or contractors to comply with this Contract.
8. Operator may, at any time, submit a request to the Division to substitute surety. The Division may approve such substitution if the substitute surety meets the requirements of the Act and the implementing rules.
9. This Contract shall be governed and construed in accordance with the laws of the State of Utah.
10. If Operator shall default in the performance of its obligations hereunder, Operator agrees to pay all costs and expenses, including reasonable attorney's fees and costs incurred by the Division and/or the Board in the enforcement of this Contract.
11. Any breach that the Division finds to be material of the provisions of this Contract by Operator may, at the discretion of the Division, result in an order to cease mining operations. After opportunity for notice and hearing, the Board of Oil, Gas and Mining may enter an order to revoke the Notice of Intention, order reclamation, or order forfeiture of the Surety Contract, or take such other action as is authorized by law.
12. In the event of forfeiture of the Surety Contract, Operator shall be liable for any additional costs in excess of the surety amount which are required to comply with this Contract. Any excess monies resulting from forfeiture of the Surety Contract, upon completion of reclamation and compliance with this Contract, shall be returned to the rightful claimant.
13. This Contract including the Notice of Intention, as amended and the Reclamation Plan, as amended, represents the entire agreement of the parties involved, and any modification must be approved in writing by the parties involved.
14. Each signatory below represents that he/she is authorized to execute this Contract on behalf of the named party.

OPERATOR:

Brush Resources Inc.
Operator Name

By Alex C. Boulton
Authorized Officer (Typed or Printed)

President
Authorized Officer - Position

Alex C. Boulton
Officer's Signature

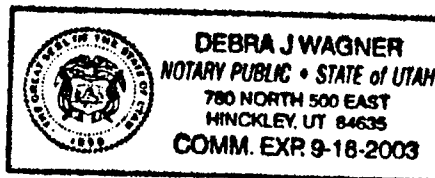
10/21/02
Date

STATE OF Utah)
COUNTY OF Millard County) ss:

On the 21st day of October, 2002, personally appeared before me,
Alex C. Boulton who being by me duly sworn did say that he/she is the
President of Brush Resources Inc.
and duly acknowledged that said instrument was signed on behalf of said company by
authority of its bylaws or a resolution of its board of directors and said
Alex C. Boulton duly acknowledged to me that said
company executed the same.

Debra J. Wagner
Notary Public
Residing at Hinckley, Utah

09-18-2003
My Commission Expires:



DIVISION OF OIL, GAS AND MINING:

By Lowell P Braxton
Lowell P. Braxton, Director

11/6/02
Date

STATE OF Utah)
COUNTY OF Salt Lake) ss:

On the 6th day of November, 2002 Lowell P Braxton
personally appeared before me, who being duly sworn did say that he, the said Lowell P Braxton
Lowell P Braxton is the Director of the Division of Oil, Gas and Mining,
Department of Natural Resources, State of Utah, and he duly acknowledged to me that
he executed the foregoing document by authority of law on behalf of the State of Utah.



Joelle Burns
Notary Public
Residing at: S L C UT

April 4, 2005
My Commission Expires:

ATTACHMENT "A"

Brush Resources Inc.
Operator

Topaz Mining Properties
Mine Name

M/023/003
Permit Number

Juab County, Utah

LEGAL DESCRIPTION

Include 1/4, 1/4, 1/4 sections, townships, ranges and any other descriptions that will legally determine where disturbed lands are located. Attach a topographic map of suitable scale (max. 1 inch = 500 feet; 1 inch = 200 feet or larger scale is preferred) showing township, range and sections and a clear outline of the disturbed area boundaries tied to this Reclamation Contract and surety.

The detailed legal description of lands to be disturbed includes portions of the following lands not to exceed 203 acres under the approved permit and surety, as reflected on the attached map labeled Topaz Mining Properties and dated December 22, 2000:

Township 13 South, Range 12 West, SLM

- Section 4
The SW 1/4 of the SE 1/4, and the SE 1/4 of the SW 1/4.
- Section 5
Lot 1, and Lot 2, and the S 1/2 of the NE 1/4, and the SE 1/4, and the E 1/2 of the SW 1/4, and the SE 1/4 of the NW 1/4.
- Section 7
The S 1/2 of the NE 1/4, and the SE 1/4, and the E 1/2 of the SW 1/4.
- Section 8
The NE 1/4, and W 1/2 and the SE 1/4 of the SE 1/4, and the E 1/2 and the SW 1/4 of the SW 1/4.
- Section 9
The NE 1/4, and the SE 1/4, and the SW 1/4, and the NW 1/4.
- Section 10
The NW 1/4 of the SW 1/4, and the W 1/2 of the NW 1/4.
- Section 16
The NE 1/4, and NW 1/4.
- Section 17
The N 1/2 of the NE 1/4.

Township 12 South, Range 12 West, SLM

- Section 31
The NW 1/4, the N 1/2 of the SW 1/4, the SW 1/4 of the NE 1/4, and the NE 1/4 of the SW 1/4.
- Section 32
The W 1/2 of the SE 1/4, and the E 1/2 of the SW 1/4, and the SE 1/4 of the NW 1/4.

National City

INTERNATIONAL DIVISION #7532
P.O. BOX 5101
CLEVELAND, OHIO 44101-0101 U.S.A.

TELEX: 2-2537
ANSWER BACK: NCB UR
SWIFT: NATCUS33

RECEIVED

OCT 25 2002

STREET ADDRESS:
23000 MILLCREEK BLVD.
CLEVELAND, OHIO 44122

LETTER OF CREDIT
1-800-622-8074
EXPORTS
STANDBY'S
COLLECTIONS OR
FOREIGN CHECKS
OPTION 3
OPTION 4
OPTION 5

DIV. OF OIL, GAS & MINING

STANDBY LETTER OF CREDIT NO. SCL008327

DATE: OCTOBER 23, 2002

BENEFICIARY:

UTAH DIVISION OF OIL, GAS, AND MINING
1594 WEST NORTH TEMPLE, SUITE 210
BOX 145801
SALT LAKE CITY, UTAH 84114-5801

APPLICANT:

BRUSH RESOURCES, INC.
10 MILES NORTH HIGHWAY 6
DELTA, UTAH 84624

GENTLEMEN AND LADIES:

NATIONAL CITY BANK ("SURETY"), OF CLEVELAND, OHIO, HEREBY ESTABLISHES THIS IRREVOCABLE LETTER OF CREDIT (THE "LETTER OF CREDIT") IN FAVOR OF THE UTAH DIVISION OF OIL, GAS AND MINING ("DIVISION") FOR AN AGGREGATE AMOUNT NOT TO EXCEED 311,300.00 (THREE HUNDRED ELEVEN THOUSAND THREE HUNDRED U.S. DOLLARS) IN UNITED STATES DOLLARS ("FACE AMOUNT") EFFECTIVE IMMEDIATELY.

THIS LETTER OF CREDIT WILL EXPIRE UPON THE FIRST EVENT SET FORTH AS FOLLOWS: (A) 5:00 O'CLOCK P.M. (CLEVELAND, OHIO TIME) ON OCTOBER 22, 2003 OR (B) THE DATE UPON WHICH SUFFICIENT DOCUMENTS ARE EXECUTED BY THE DIVISION TO RELEASE BRUSH RESOURCES, INC. ("OPERATOR") FROM FURTHER LIABILITY FOR RECLAMATION OF THE TOPAZ MINING PROPERTIES, M/023/003 WITH NOTICE TO BANK OR SURETY BY THE DIVISION ACCOMPANIED BY THE ORIGINAL LETTER OF CREDIT WITH DIRECTIONS FOR CANCELLATION.

THIS LETTER OF CREDIT WILL BE AUTOMATICALLY EXTENDED FOR SUCCESSIVE PERIODS OF ONE YEAR FROM THE CURRENT OR ANY FUTURE EXPIRATION DATE UNLESS THE SURETY GIVES NOTICE TO THE DIVISION NINETY (90) DAYS PRIOR TO THE EXPIRATION DATE THAT THE SURETY ELECTS NOT TO RENEW THE LETTER OF CREDIT.

FUNDS UNDER THE LETTER OF CREDIT ARE AVAILABLE AGAINST THE DIVISION'S SIGHT DRAFT, IN THE FORM OF EXHIBIT A, SPECIFYING LETTER OF CREDIT NO. SCL008327 DELIVERED TO THE OFFICE OF THE SURETY, 23000 MILLCREEK BLVD, CLEVELAND, OHIO 44122, ATTN: INTERNATIONAL DEPT. AT THE DIVISION'S SOLE ELECTION, THE DIVISION MAY PRESENT SIGHT DRAFT FOR LESS THAN THE FACE AMOUNT SO LONG AS THE AGGREGATE AMOUNT OF ALL SIGHT DRAFTS DOES NOT EXCEED THE FACE AMOUNT. EACH DRAFT MUST BE ACCOMPANIED BY A CERTIFICATE IN THE FORM OF EXHIBIT B, SIGNED BY A DULY AUTHORIZED REPRESENTATIVE OF THE DIVISION.

IF THE SURETY RECEIVES THE DIVISION'S SIGHT DRAFT(S) AND CERTIFICATE(S) AS PROVIDED IN PARAGRAPH NO. 4 ABOVE ON OR BEFORE THE EXPIRATION OR TERMINATION OF THIS LETTER OF CREDIT, THE SURETY WILL MAKE SUCH AMOUNT AS THE DIVISION MAY SPECIFY, WITHIN THE LIMITS OF THE SECOND SENTENCE OF PARAGRAPH NO. 4 OF THIS LETTER OF CREDIT, AVAILABLE TO THE DIVISION NO LATER THAN THE CLOSE OF BUSINESS, SALT LAKE CITY TIME, ON THE SECOND BUSINESS DAY FOLLOWING THE SURETY'S RECEIPT OF THE SIGHT DRAFT AND CERTIFICATE AND IN SUCH A MANNER AS THE DIVISION MAY SPECIFY.

ORIGINAL

National City

INTERNATIONAL DIVISION #7532
P.O. BOX 5101
CLEVELAND, OHIO 44101-0101 U.S.A.

TELEX: 212537
ANSWER BACK: NCB UR
SWIFT: NATCUS33

STREET ADDRESS:
23000 MILLCREEK BLVD.
CLEVELAND, OHIO 44122

LETTER OF CREDIT
1-800-622-8074
EXPORTS OPTION 3
STANDBY'S OPTION 4
COLLECTIONS OR
FOREIGN CHECKS OPTION 5

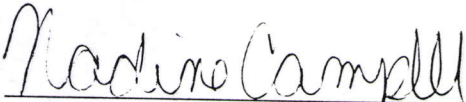
PAGE 2 OF 2
L/C NO. SCL008327

THE SURETY WILL GIVE PROMPT NOTICE TO THE OPERATOR AND TO THE DIVISION DIRECTOR OF ANY NOTICE RECEIVED OR ACTION FILED ALLEGING THE INSOLVENCY OR BANKRUPTCY OF THE SURETY, OR ALLEGING ANY VIOLATIONS OF REGULATORY REQUIREMENTS WHICH COULD RESULT IN SUSPENSION OR REVOCATION OF THE SURETY'S CHARTER OF LICENSE TO DO BUSINESS.


THE LETTER OF CREDIT WILL BE GOVERNED BY THE LAWS OF THE STATE OF UTAH AND SHALL BE SUBJECT TO THE UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDIT, 1993 REVISION, INTERNATIONAL CHAMBER OF COMMERCE PUBLICATION NO. 500, AS THE SAME MAY BE AMENDED AND IN EFFECT FROM TIME TO TIME ("UCP"). IN THE EVENT OF A CONFLICT BETWEEN UTAH LAW AND THE UCP, UTAH LAW SHALL GOVERN.

ALL COMMUNICATIONS REGARDING THIS LETTER OF CREDIT WILL BE ADDRESSED TO NATIONAL CITY BANK CLEVELAND, OHIO, 23000 MILLCREEK BLVD.. CLEVELAND, OHIO 44122, ATTN: INTERNATIONAL DEPT., REFERENCING LETTER OF CREDIT NO. SCL008327.

REGARDS,



AUTHORIZED SIGNATURE
NADINE CAMPBELL, SUPERVISOR
NATIONAL CITY BANK
CLEVELAND, OHIO
WMM/NC



AUTHORIZED SIGNATURE
SANTOSH PODAR, SECTION MANAGER
NATIONAL CITY BANK
CLEVELAND, OHIO

ORIGINAL

National City

INTERNATIONAL DIVISION #7532
P.O. BOX 5101
CLEVELAND, OHIO 44101-0101 U.S.A.

STREET ADDRESS:
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LETTER OF CREDIT
1-800-622-8074
EXPORTS
STANDBY'S
COLLECTIONS OR
FOREIGN CHECKS

OPTION 3
OPTION 4
OPTION 5

**EXHIBIT B
TO
LETTER OF CREDIT NO. SCL008327**

I, _____ A DULY AUTHORIZED REPRESENTATIVE OF
THE UTAH DIVISION OF OIL, GAS AND MINING, HEREBY CERTIFY THAT (1) THE DRAWING IN THE
AMOUNT OF \$ _____, BY SIGHT DRAFT ACCOMPANYING THIS
CERTIFICATE, UNDER LETTER OF CREDIT NO. SCL008327 DATED OCTOBER 23, 2002 ISSUED BY YOU
IS PERMITTED UNDER THE PROVISION OF THE LETTER OF CREDIT, (2) THE LETTER OF CREDIT HAS
NEITHER EXPIRED NOR TERMINATED PURSUANT TO ITS TERMS, (3) THE AMOUNT OF THE SIGHT
DRAFT, TOGETHER WITH ANY AMOUNTS PREVIOUSLY DRAWN UNDER THE LETTER OF CREDIT,
DOES NOT EXCEED THE FACE AMOUNT, AND (4) THE UTAH BOARD OF OIL, GAS AND MINING,
AFTER NOTICE AND HEARING, HAS ENTERED AN ORDER WHICH HAS NOT BEEN STAYED,
ORDERING FORFEITURE OF LETTER OF CREDIT NO. SCL008327 IN ACCORDANCE WITH APPLICABLE
LAW. PROCEEDS OF THIS DRAWING WILL BE UTILIZED IN FULL TO PAY THE EXPENSES RELATING
TO THE RECLAMATION LIABILITY, TOGETHER WITH THE COSTS OF COLLECTION, INCLUDING
ATTORNEYS FEES, FOR THE TOPAZ MINING PROPERTIES, M/023/003.

THE UTAH DIVISION OF OIL, GAS AND MINING

BY: _____
AUTHORIZED SIGNATURE

DATE: _____

ORIGINAL

National City

INTERNATIONAL DIVISION #7532
P.O. BOX 5101
CLEVELAND, OHIO 44101-0101 U.S.A.

TELEX: 212537
ANSWER BACK: NCB UR
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STREET ADDRESS:
23000 MILLCREEK BLVD.
CLEVELAND, OHIO 44122

LETTER OF CREDIT
1-800-622-8074
EXPORTS **OPTION 3**
STANDBY'S **OPTION 4**
COLLECTIONS OR
FOREIGN CHECKS **OPTION 5**

**EXHIBIT A – SIGHT DRAFT
TO
LETTER OF CREDIT NO. SCL008327**

DATE	CITY, COUNTY	LETTER OF CREDIT NO.
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PAY TO THE ORDER OF: UTAH DIVISION OF OIL, GAS AND MINING

DOLLARS.

TO: NATIONAL CITY BANK
23000 MILLCREEK BLVD.
CLEVELAND, OHIO 44122
ATTN: INTERNATIONAL DEPT.

UTAH DIVISION OF OIL, GAS AND MINING
1594 WEST NORTH TEMPLE SUITE 1210
BOX 145801
SALT LAKE CITY, UTAH 84114-5801

BY: _____
AUTHORIZED SIGNATURE

ORIGINAL